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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,348	03/27/2001	Silvano Castellarin	55635	1202

7590

09/11/2002

Peter F. Corless
EDWARDS & ANGELL, LLP
Dike, Bronstein, Roberts & Cushman, IP Group
130 Water Street
Boston, MA 02109

EXAMINER

RUTLEDGE, DELLA J

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,348

Applicant(s)

CASTELLARIN ET AL.

Examiner

D. Rutledge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 1, lines 8 and 9, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fakler (US 5,416,552).

Fakler has an arrangement for preparing a liquid treatment solution for treating photosensitive material comprising: a storage container (11), a component supply (22,23) having level sensor (24), a reception container (20) having level sensor (21), a mixing tank (15) having level sensor (16), connecting means to deliver the components and treatment solution to the mixing tank (15) or the storage container (11) in a

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automatic replenishing sequence. Although Fakler does not use dry components, one of ordinary skill in the art at the time the invention was made would have recognized that the teaching of the reference was to provide a component supply and a reception container, delivering the contents of the component supply and the reception container to a mixing tank, then to the storage container. One of ordinary skill in the art would have recognized that the components may be liquid or dry. Fakler does not disclose a mixing device in the mixing tank (15), but such a device is well known in the art and those of ordinary skill in the art would have been motivated to use a mixing device to increase/improve the mixing time/quality of the mixing process. When using dry components it is important that the components be properly dissolved to prevent undissolved component particles from adhering to the image; therefore, using a mixing device is a common practice with dry components.

Conclusion

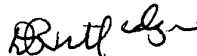
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kobayashi et al. (US 4,705,379) is cited to show that those of ordinary skill in the art would have recognized that a replenishing arrangement using liquid components would have recognized that the arrangement may be modified to use dry components. The container (15) may comprise dry or liquid components. Tsubaki et al. (US 5,459,545) makes a liquid treatment solution from dry components and has a mixing device (rotary stirring blade 6) in the mixing chamber (4).

Response Data

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Rutledge whose telephone number is (703) 308-1697. The examiner can normally be reached on Mon - Thurs, 6:00 AM - 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Adams can be reached on (703) 308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 308-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.


D. Rutledge
Primary Examiner
Art Unit 2851

dr
September 6, 2002